## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:17-CV-378-D

ERIC M. MCMILLIAN,	)	
Plaintiff,	)	
v.	)	ORDER
SHIN, YONG JOO, et al.,	)	
Defendants.	)	

On July 26, 2017, Eric M. McMillian ("McMillian" or "plaintiff"), proceeding pro se, applied to proceed in forma pauperis [D.E. 1] and attached a proposed complaint [D.E. 1-1]. On October 2, 2017, McMillian filed additional materials in support of his complaint [D.E. 4]. McMillian now moves to voluntarily dismiss this action [D.E. 5].

A plaintiff may dismiss an action voluntarily, without a court order, by filing a notice of dismissal at any time before the adverse party serves an answer or a motion for summary judgment. Fed. R. Civ. P. 41(a)(1)(A)(i). Otherwise, an action shall not be dismissed on the plaintiff's request except upon court order. <u>Id.</u> 41(a)(2). Defendants have not filed an answer or a motion for summary judgment. Thus, McMillian may voluntarily dismiss the action.

In sum, the court GRANTS McMillian's motion for voluntary dismissal [D.E. 5], and DISMISSES this action without prejudice.

SO ORDERED. This 11 day of January 2018.

JAMES C. DEVER III
Chief United States District Judge